

REMARKS

Claims 33-48 are now pending within this application. Claims 1-32 have been cancelled in lieu of these new claims as well as the aforementioned divisional application. New claims 33-48 have been added with Claims 34-48 mirroring the language of original claims 2-15, except for claim dependencies. Claim 33 reflects the limitation of the Examples, at least, of the presence of at least one polyolefin resin within the target thermoplastic article. No new matter has been added. Entry and due consideration of such amendments are therefore earnestly solicited.

Applicants also herein bring to the attention of the Office the existence of co-pending, same inventive entity, allowed application 10/015,872.

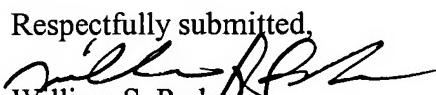
The Office has rejected Claims 1-16 and 22-32 under 35 U.S.C. § 103(a) as unpatentable over Lever in view of Koji et al. This rejection relies upon the status of Lever (US Pat # 6,187,456) as proper prior art over the instant claims. Such a reference issued on February 13, 2001, thereby limiting its applicability over the present application as a reference under 35 U.S.C. § 102(e). As stated in 35 U.S.C. § 103(c), and in view of the Statement to Disqualify such a reference as prior art, the fact that both the current application and the Lever patent were subject to an assignment to Milliken & Company at the time the currently claimed invention was made, such a reference cannot properly be cited against the pending claims. Thus, the basis of this rejection is improper. For that reason, it is respectfully requested that reconsideration and withdrawal of such a basis of rejection be performed in this instance by the Office.

The Office has also rejected Claims 1-16 and 22-32 under 35 U.S.C. § 103(a) as unpatentable over Koji et al. by itself. In view of the limitations of the new claims, it is respectfully submitted that such a rejection is clearly improper. Koji et al. are limited to rubber-reinforced styrenic resins; the present claims require polyolefin resins. There is no suggestion within Koji et al. for the inclusion of carboxylic acids of any type within polyolefin resin articles at all, let alone within antimicrobial polyolefins. Thus, there is no teaching of the claimed invention, either explicitly taught or fairly suggested, by patentees. Thus, retention of such a reference as the basis of rejection over the pending claims is improper. Reconsideration and withdrawal thereof are therefore respectfully requested.

CONCLUSION

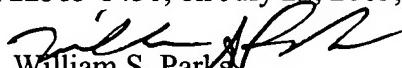
In view of all of the amendments and the accompanying remarks above, it is respectfully submitted that the pending claims are now in condition for allowance and it is requested that this application be passed on to issue.

July 22, 2003

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on July 22, 2003, along with a postcard receipt.


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